the policyholder acting in the course of his employment, it is submitted that the liability of Khoo Chia Wah (the authorised driver) was not covered by the policy on the true construction of the policy.

We are unable to accept this contention and are of the opinion that the appeal should be dismissed. The same point was raised and decided by the English Court of Appeal in *Richards* v. *Cox*.[1] In the English case the paragraph which corresponds to paragraph 2 of Section II of the policy in the present case reads as follows: —

"In terms of and subject to the limitations of and for the purposes of this section the company will treat as though he were the insured person any person who is driving such vehicle on the insured's order or with his permission provided (A) that such person is not entitled to indemnity under any other policy, (B) that such person shall as though he were the insured observe fulfil and be subject to the terms exceptions and conditions of this policy in so far as they can apply."

There is also a proviso in the English case corresponding to clause (ii) under the heading "Exceptions to Section II" of the policy in the present case. Scott L.J. at page 626 said: —

"The whole appeal before us turned on the wording of the policy. It is more or less in accord with the common form of motor accident policies since the Road Traffic Acts were passed, and contains a great number of different clauses. It begins with the ordinary form of recital referring to the insured as designated in the schedule, carrying on the business there described, and so on. Under section II of the policy, headed 'Liability to third parties', there is this provision in paragraph (I):

'The company will indemnify the insured against liability at law for compensation and claimant's costs and expenses in respect of: Death of or bodily injury to any person caused by or arising out of the use of any vehicle described in the schedule hereto'.

Then certain provisoes are added:

Provided always that the company shall not be liable in respect of ... (B) Death of or bodily injury to any person in the employment of the insured arising out of and in the course of such employment. (C) Death of or bodily injury to any person (other than a passenger carried by reason of or in pursuance of a contract of employment) being carried in or upon or entering or getting on to or alighting from such vehicle at the time of the occurrence of the event out of which any claim arises.

Then follows a further paragraph (2), the important provision in this case. It says this:

'In terms of and subject to the limitations of and for the purposes of this section the company will treat as though he were the insured person any person who is driving such vehicle on the insured's order or with his permission provided (A) that such person is not entitled to indemnity under any other policy, (B) that such person shall as though he were the insured observe fulfil and be subject to the terms exceptions and conditions of this policy in so far as they can apply'.

The last seven words are necessarily added, in my opinion, because under this paragraph (2) a person other than the primary insured is treated as also covered by the policy; and it is obvious that various provisions in the policy applicable to the primary insured, Messrs. Dickerson Brothers, will not apply to the case of such other person. In my view, the words 'in so far as they can apply' mean that such of the terms, conditions and exceptions of Messrs. Dickerson's insurance as are reasonably applicable to the insurance of their driver's liability are incorporated in the latter's cover; but, in so far as they are not so applicable, they are to be disregarded. I think that the provision so made is quite clear, and a very natural provision to be made, having regard to the terms of the Road Traffic Act, 1930, section 36; and I can see no escape from the conclusion that the liability of Robson was covered by the insurance, so that, if an action had been brought against him, the plaintiff in this case could have recovered the payment of his liability ultimately through the insurance company.

Counsel for the appellant has argued very strenuously that the provisoes to the first paragraph of section II, which I have already read, shut out the interpretation of the second paragraph which I have just read. My first answer is that those provisions seem to me to be addressed to the case of Dickerson Brothers incurring the liability and to the insurance of them for their own protection under the statute; but, even if you read them as conceivably in some circumstances applicable to the case of the insurance of a driver authorised by them to drive the insured car, it does not seem to me that they are sufficient to affect the primary object of the quite separate paragraph (2), which is the insurance of the driver."

Instead of the words "the company will treat as though he were the insured person any person" in the English policy, the present policy contains the words "the company will indemnify any authorised driver". In our opinion the reasoning of Scott L.J. from the passage we have just quoted applies with equal force to the corresponding provisions of the policy in the present case. It is to be observed that if the contention of counsel for the appellants is correct the liability of the appellants as insurers to indemnify an authorised driver, which is separate and distinct from the liability to indemnify the insured, does not extend to cover death or injury to employees of the insured and this, in our opinion, would be contrary to the provisions of section 4 of the Motor Vehicles (Third-Party Risks and Compensation) Act.

Accordingly, the appeal is dismissed with costs.

Appeal dismissed.

Solicitors: *S.K. Lee & Co.; Ho Thian Cheh & Co.*

E. & M.W. (LATEX) LIMITED v. THE CHIEF ASSESSOR, PROPERTY TAX DIVISION

[C.A. (Wee Chong Jin C.J.) October 27, 1976]
[Singapore — Originating Motion No. 11 of 1974]

Property Tax — Premises of Port of Singapore Authority — Whether exempted from property tax — Application of s. 28(1), Port of Singapore Authority Act — Scope of — Port of Singapore Authority Act (Cap. 173), ss. 14(1) & (2), 28(1) — Local Government Ordinance, 1957, ss. 108 to 130 — Property Tax Ordinance 1960, ss. 6, 8 & 12 — Property Tax Act (Cap. 144).

The premises in question was vested in the Port of Singapore Authority, by virtue of section 14(1) of the Port of Singapore Authority Act under which "all lands buildings and other property ... of the Singapore Harbour Board ... shall be transferred to and vest in the (P.S.A.) without further assurance." By section 14(2) the "liabilities and obligations" of the Singapore Harbour Board "shall also be transferred to and be deemed to have been incurred by the (P.S.A.)".

The issue before the court was whether on the proper construction of section 28(1) of the Port of Singapore Authority Act, "houses, buildings, lands and tenements" of the Port of Singapore Authority were exempted from property tax.

Held, allowing the appeal: (1) the Property Tax Ordinance, 1960 comes within the meaning of the words "any written law repealing and re-enacting the provisions (of the Local Government Ordinance, 1957) in section 28(1) of the Port of Singapore Authority Act. Hence, by virtue of the Port of Singapore Authority Act "houses, buildings, lands and tenements" of the Port of Singapore Authority are exempted from property tax;

(2) the Minister may, however, under section 28(2) after consultation with the Port of Singapore Authority apply the provisions of the Property Tax Ordinance, 1960. In the present case, no declaration has been made as aforesaid.

ORIGINATING MOTION.

Dr. S.M. Thio for the appellants.

Lucy Hangchi (Mrs.) for the respondent.

Wee Chong Jin C.J.: This appeal turns mainly on the proper construction of section 28, particularly section 28(1), of the Port of Singapore Authority Act (hereinafter referred to as "the Act") which was enacted in 1963 as the Port of Singapore Authority Ordinance, 1963. The material provisions of section 28 read as follows: —

"28.—(1) The premises vested in the Authority shall be exempt from the operation of the Municipal Ordinance and the Local Government Ordinance, 1957, and the by-laws made thereunder or any written law repealing and re-enacting the provisions thereof, ...

(2) The Minister may, after consultation with the Authority, by order published in the *Gazette* declare that any other provisions of the said Ordinances and by-laws or of any written law repealing or re-enacting the provisions thereof, shall apply to the premises of the Authority, and thereupon the same shall apply accordingly."

The expression "premises" in the Act is defined in section 2 to include "houses, buildings, lands, tenements . . .".

One of the premises vested in the Port of Singapore Authority (hereinafter referred to as "the P.S.A."), by virtue of section 14(1) of the Act under which "all lands buildings and other property . . . of the Singapore Harbour Board . . . shall be transferred to and vest in the (P.S.A.) without further assurance", is a piece of property described as "Land at Main Wharf XXIII Lot No. 305 pt.". By section 14(2) the "liabilities and obligations" of the Singapore Harbour Board "shall also be transferred to and be deemed to have been incurred by the (P.S.A.)".

In 1960 the legislature enacted the Property Tax Ordinance, 1960 which came into operation on January 1, 1961 under the long title "An Ordinance to provide for the levy of a tax on immovable properties in lieu of the rates previously leviable by local authorities and to regulate the collection thereof". Rates leviable and the collection thereof were, prior to the coming into force of the Property Tax Ordinance, 1960, governed by the Local Government Ordinance, 1957 and in particular sections 108 to 130. These sections of the Local Government Ordinance, 1957 were expressly repealed by section 64 of the Property Tax Ordinance, 1960 which re-enacted, with the necessary modifications, the repealed sections.

Under section 6 of the Property Tax Ordinance, 1960 all 'houses, buildings, lands . . . whatsoever included in the Valuation List authenticated under section 12" are subject to property tax which is "payable by the owner of such property". Section 8 of the Property Tax Ordinance, 1960 requires the Chief Assessor to prepare "a list which shall be known as 'The Valuation List' of all houses, buildings, lands and tenements". Section 12 of the Property Tax Ordinance, 1960 requires the Chief Assessor to authenticate the Valuation List by signing his name thereto.

It is clear, therefore, that from January 1, 1961, all houses, buildings, lands and tenements are subject to property tax under the Property Tax Ordinance, 1960. There is, however, a provision which is applicable to "any public body or body corporate constituted by statute" in Singapore. This provision is section 6(7) which reads as follows: —

"Notwithstanding any other provisions contained in this Ordinance the Minister may, in respect of any public authority or body corporate constituted by statute in the State, order that in lieu of the property tax payable under this Ordinance, such authority or body corporate shall pay to the Government . . . a sum to be calculated on such basis as may be deemed equitable by the Minister."

The Singapore Harbour Board and the P.S.A. are bodies corporate constituted by statute in Singapore.

From the foregoing, it is in my opinion clear that the houses, buildings, lands and tenements which were vested in the Singapore Harbour Board until it ceased to exist, were liable either to property tax from January 1, 1961 [section 6(1)] or, in lieu of property tax, that the Singapore Harbour Board was liable to make a payment, [section 6(7)] and this liability *prima facie* devolved on the P.S.A. by the operation of section 14 of the Act. The question is whether section 28(1) of the Act, on its proper construction, operates to exempt the "houses, buildings, lands and tenements" of the P.S.A. from this *prima facie* liability. The answer to this question depends upon whether the Property Tax Ordinance, 1960 comes within the meaning of the words "any written law repealing and re-enacting the provisions (of the Local Government Ordinance, 1957)" in section 28(1) of the Act. In my judgment it does. As I have already indicated, section 64 expressly repeals sections 108 to 130 of the Local Government Ordinance, 1957 and these repealed sections are the sections in the Local Government Ordinance, 1957 which provide for the levy of rates by local authorities and which regulate the collection thereof. Furthermore, an examination of the provisions of the Property Tax Ordinance, 1960 shows that they, *inter alia*, re-enacted, with the necessary modifications, the repealed sections 108 to 130 of the Local Government Ordinance, 1957. Finally, a consideration of the provisions of section 28(2) of the Act fortifies me in the conclusion I have arrived at. Section 28(2) expressly empowers the Minister, if he so decides after consultation with the P.S.A., to apply the provisions of the Property Tax Ordinance, 1960 (now known as the Property Tax Act) to "premises", as defined in section 2, vested in the P.S.A.

As it is conceded that no declaration has been made by the Minister under section 28(2) the appeal is allowed with costs.

Appeal allowed.

Solicitors: *Chor Pee & Hin Hiong.*